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No. 82-19

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

FEDERAL ENERGY REGULATORY COMMISSION,
Petitioner,

v.

MID-LOUISIANA GAS COMPANY, *et al.*,
Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

BRIEF IN OPPOSITION OF RESPONDENT COLORADO INTERSTATE GAS COMPANY

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QUESTION PRESENTED

Whether the United States Court of Appeals for the Fifth Circuit, upon review of Federal Energy Regulatory Commission orders, correctly interpreted that the Congressional intent embodied in the Natural Gas Policy Act of 1978 ("NGPA") was for natural gas production attributable to an "interstate pipeline, intrastate pipeline or local distribution company, or any affiliate thereof" to be accorded first sale status under the NGPA.

LISTING OF AFFILIATES PURSUANT TO RULE 28.1

Colorado Interstate Gas Company is one of a number of parties below to the petition for a writ of certiorari filed by the Solicitor General of the United States on behalf of the Federal Energy Regulatory Commission in No. 82-19. Colorado Interstate Gas Company is a wholly owned subsidiary of Colorado Interstate Corporation. Colorado Interstate Corporation is, in turn, a wholly owned subsidiary of The Coastal Corporation. The remaining subsidiaries of The Coastal Corporation and affiliates of Colorado Interstate Gas Company are as follows:

Coastal Refining Company, Coastal States Petroleum Company, Coastal States Crude Gathering Company, Coastal States Marketing, Inc., CIC Industries, Inc., Derby Refining Company, Pacific Refining Company, Western Fuel Oil Company, Wycon Chemical Company, Coastal Energy Corporation, Coastal Refinery Marketing B. V., Coastal Ventures, Inc., Raffinerie Belge de Petroles S.A. (Belgische Petroleum Raffinaderij N.V.), Coastal Management Services (Singapore) Pte. Ltd., Coastal States Energy Company, Alaska Petroleum Company, Freeburn Corporation, McCoy-Caney Coal Company, Southern Utah Fuel Company, Utah Fuel Company, Coastal States Management Corporation, Coastal States Trading, Inc., CIG Exploration, Inc., Cosbel Petroleum Corporation, The Belcher Company of New York, Inc., Belcher New England, Inc., Belcher New Jersey, Inc., Belcher Oil Company, Belcher Towing Company, Manatee Towing Company, Belcher Terminals, Inc., Belcher Oil Company of Pensacola, The Belcher Company of Alabama, Inc., The Belcher Company of Georgia, Inc., The Belcher Company of Tennessee, Inc., The Belcher Company of Texas, Inc., Coscol Petroleum Corporation, Costa Petro, Coastal Libya, Inc., Coastal Petroleum (Far East) Pte. Ltd., Coscol Marine Corporation, Coskan Shipping Co., Inc., Holborn Oil Company Limited, Holborn Petroleum S.A., Union Oil Trading & Shipping Limited, Bunyan Charterers Ltd., Coastal States Europe Limited, Pomona Shipping Company Limited, Succula Limited, Coastal States Exploration

Services Limited, Coastal States Petroleum (U.K.) Limited, Coastal States Trading (U.K.) Limited, Woodstock Shipping Company Limited, Subtype Limited, Holborn-Pomona Petroleum Limited, Holborn Oil Trading Limited, Coastal (Bermuda) Limited, Geogas Enterprise S.A., Sequoia Tankers, Inc., Stonehurst Limited, Texas Tank Ship Agency, Inc., Texcol Gas Services, Inc., Coastal Oil & Gas Corporation, Border Exploration Company, Coastal Congo Exploration Limited, Coastal Indonesia, Inc., Coastal Libya Exploration Limited, Coastal Papua New Guinea Exploration, Inc., Coastal Uranium, Inc., Syrian American Oil Corporation (Texas), Western Enterprises, Inc., CLU Enterprises, Inc., Coastal Christi, Inc., Coastal Hercules, Inc., Coastal Capital Corporation, Coastal Finance Corporation, Coastal Overseas Finance Ltd., Coastal Netherlands Financial B.V., Coastal Financial B.V., Coastal Financial Antilles, N.V., Coastal Offshore Insurance, Ltd., Colbourne Insurance Company Limited, Coastal Limited Ventures, Inc., Coastal 1981 Development Program, Ltd., Coastal 1982 Drilling Program, Ltd., CIG Gas Supply Company, Wyoming Gas Supply, Inc., Coastal Coal Sales Company, Overthrust Pipeline Company, Wyoming Interstate Company, Ltd., Petroles D'Outre Mer S.A., Jayhawk Pipeline Corporation, and CIG-Canyon Compression Company.

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On Petition for a Writ of Certiorari
To The United States Court of Appeals
For the Fifth Circuit

BRIEF IN OPPOSITION OF RESPONDENT COLORADO INTERSTATE GAS COMPANY

Colorado Interstate Gas Company (hereinafter "CIG") an intervenor below and a respondent in this case, hereby opposes the petition for a writ of certiorari filed by the Solicitor General of the United States on behalf of the Federal Energy Regulatory Commission (hereinafter "Commission") in No. 82-19 on July 6, 1982. CIG was served with a copy of the petition on July 12, 1982.

STATEMENT OF THE CASE

The only issue presented for review here is whether the United States Court of Appeals for the Fifth Circuit, on review of Federal Energy Regulatory Commission orders, has properly interpreted the intent of Congress embodied in the Natural Gas Policy Act of 1978,[1] (hereinafter "NGPA") with respect to the pricing treatment of natural gas produced by pipelines.

In two rulemaking proceedings before the Commission[2] various parties, including CIG, argued that all pipeline produced gas should be and was intended by Congress to be treated on a full pricing parity basis with gas produced by others under the NGPA. The Commission, while acknowledging its authority under the NGPA to accord first sale treatment and, therefore full pricing parity to pipeline production,[3] nevertheless chose to interpret the NGPA as not applicable to pipeline production except in very limited instances.[4] The Commission determined, however, that all pipeline affiliate sales of natural gas were "first sales" under the NGPA if the affiliate is not a pipeline or distributor.[5] Pursuant to its authority under the Natural Gas Act of 1938[6] (hereinafter "NGA"), the

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[1] 15 U.S.C. § 3301, *et seq.* (Supp. II, 1978).

[2] The Commission proceedings at Docket No. RM80-6, entitled "Pricing of Pipeline and Affiliate Production Under the Natural Gas Act" began with a "Notice of Proposed Rulemaking" issued November 14, 1979. Order No. 98, issued on August 4, 1980, promulgated the final rule in Docket No. RM80-6. The Commission proceedings at Docket No. RM80-7, entitled "Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor or Affiliate Production," stem from interim regulations upon which comment was sought by order issued in November of 1978 (43 Fed. Reg. 56448, December 1, 1978). Order No. 58, issued on November 14, 1979, promulgated the final regulations interpreting Section 2(21) of the NGPA (15 U.S.C. § 3301(21)). Order No. 102, "Order Denying Rehearing of Order No. 58 and Order No. 98 and Clarifying Order No. 98," was issued in both Docket Nos. RM80-6 and RM80-7 on October 3, 1980.

[3] Order No. 102, *supra* note 2, (Appendix B-65). References herein to the "Appendix" are to the "Appendix To Petition For Writ Of Certiorari To The United States Court of Appeals For The Fifth Circuit" filed by the Public Service Commission of the State of New York in No. 81-1889.

[4] Order No. 102, n.5, (Appendix B-53).

[5] Order No. 58, *supra* note 2, (Appendix B-12 and B-13).

[6] 15 U.S.C. § 717, *et seq.* (1976).

Commission found that pipeline produced gas from wells on leases acquired by pipelines after October 7, 1969, and from wells drilled on or after January 1, 1973, on leases acquired before October 8, 1969, could be, with certain exceptions, valued by the pipelines for resale rate purposes at NGPA first sale maximum lawful ceilings.[7] The Commission found this result is both required in order to encourage the maximum production of natural gas and consistent with the Congressional intent expressed in the NGPA.[8] Nevertheless, the Commission decided not to extend parity pricing to gas yet to be produced from pre-1973 wells on pre-October 8, 1969, leases.[9] Such gas, according to the Commission, should be priced on a cost-of-service basis since, in its view, the "equity and incentive reasons for granting parity do not apply to such gas."[10]

A number of pipeline companies sought review of the Commission's interpretation of the NGPA and its decision to not extend full pricing parity to gas produced by pipelines. Parties both in support of and opposed to the Commission's decisions intervened and participated in the United States Court of Appeals for the Fifth Circuit review proceedings.

The Fifth Circuit, in a decision evidencing full consideration of the arguments presented and a thorough analysis of the statute and its legislative history and the regulatory background, found the Commission had incorrectly determined the Congressional intent with respect to the pricing of pipeline production.[11] The Fifth Circuit summarized its holding as follows:

> Relying on the language, purposes and history of the NGPA, we hold that Congress clearly intended for any production attributable to an "interstate pipeline, intrastate pipeline or local distribution company, or any affiliate thereof" to be accorded first sale

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[7] Order No. 98, *supra* note 2, (Appendix B-16).

[8] *Id.* (Appendix B-24 through B-26).

[9] *Id.* (Appendix B-26).

[10] *Id.*

[11] Mid-Louisiana Gas Company, *et al.* v. FERC, 664 F.2d 530 (5th Cir., 1981) (hereinafter cited as *Mid-Louisiana*).

> status under the NGPA and that Congress contemplated that the intracorporate transfer of pipeline production to the pipeline would be treated as the first sale. We therefore vacate Order No. 58. Because we hold that the Commission lacked authority to set prices for interstate pipeline production under the NGA, we also vacate Order No. 98 without reaching the issues of arbitrary pricing raised here.[12]

The court below outlined each of the factors which argue for greater deference to the interpretation given by an agency to its own statute, applied them to the facts of this case, and found no basis for extraordinary deference to the Commission's interpretation of the NGPA definition of "first sale".[13] The court held that neither of two "overriding purposes of the NGPA" (*i.e.*, "to eliminate the dual interstate and intrastate market for natural gas and to provide higher prices to encourage production") were "served by creating a distinction between pipeline and independent producers."[14]

Starting with the language of the statute, the court showed how the Commission's interpretation of Section 2(21) of the NGPA would improperly render a portion of that statutory language a nullity and how the only way the language could have meaning would be if it was interpreted as granting "first sale" status to gas which is attributable to pipeline production.[15] The court further held that the NGPA and its relevant legislative history demonstrated that Congress intended that the intracorporate transfer of pipeline produced gas from the production division of the pipeline to the transportation division would constitute the first sale[16] and that this treatment would be consistent with and no more difficult for the Commission to

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[12] *Id.* at 538, (footnote omitted). (Appendix A-15).

[13] *Id.* at 534-35. (Appendix A-7).

[14] *Id.* at 535. (Appendix A-9). The Commission in Order No. 102 found the same Congressional purposes of the NGPA (*i.e.*, "[t]he elimination of the dual market and the statutorily embraced commitment to price incentives. . .") as substantial justification for its decision to extend NGPA pricing parity to some pipeline production (Appendix B-23 and B-25).

[15] *Mid-Louisiana*, 664 F.2d at 535. (Appendix A-8 and A-9).

[16] *Id.* at 536. (Appendix A-11).

administer than its present practice of treating some pipeline production as entitled to NGPA maximum lawful ceiling prices.[17]

By order issued February 5, 1982, the Fifth Circuit denied petitions for rehearing filed by The Public Service Commission of the State of New York (hereinafter "PSC of New York") and Arizona Electric Power Cooperative, Inc. (hereinafter "AEPCO") and suggestions for rehearing *en banc* of AEPCO. On March 5, 1982, the Fifth Circuit denied the motions of PSC of New York, the State of Michigan (hereinafter "Michigan") and AEPCO for a stay of mandate pending application for a writ of certiorari.

PSC of New York, AEPCO and Michigan filed petitions for writ of certiorari in Nos. 81-1889, 81-1958, and 81-2042, respectively, in April of 1982. CIG filed a Brief in Opposition to those petitions on May 25, 1982. The petition filed herein on behalf of the Commission raises similar arguments for review by this Court.

The Commission's Petition asserts that review of the decision below is required because that decision did not give proper deference to the Commission's reading of the NGPA. The petition also claims review by this Court is required since the "intracorporate transfer" found by the Fifth Circuit to have been contemplated by Congress in the NGPA is a "novel regulatory doctrine." Further, the Commission claims that the decision below "overturns more than 40 years of regulatory policy granting cost-of-service treatment to a substantial quantity of pipeline produced gas without any persuasive evidence that Congress intended to depart from this longstanding administrative practice." Finally, the Commission says unless the decision below is reviewed and overturned, it will result in an "unjustified windfall" to pipeline producers.[18]

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[17] *Id.* at 538. (Appendix A-14).

[18] Commission Petition, pages 14 and 15.

SUMMARY OF ARGUMENT

The petition for writ of certiorari should be denied. It presents no "special and important reasons"[19] as to why review on writ of certiorari should be granted, and, in fact, no such reasons exist. The issue presented for review is one of statutory construction which has been carefully and thoroughly examined by the court below within the context of established principles of judicial review. The Fifth Circuit gave the Commission's interpretation of the NGPA the deference it was due. The court applied no "novel regulatory doctrine", since the Commission has, for at least thirteen years, permitted some pipeline produced gas to be priced as if it were transferred from the production division of the pipeline to the transportation division at area rate, nationwide rate, or maximum lawful ceilings. The decision below does not overturn any longstanding regulatory policy. Instead, whatever Commission policy change results was correctly found by the court below to be mandated by Congress in the NGPA. Similarly, the assertion that the decision below will increase revenues to pipeline producers of gas is not a reason for issuance of a writ of certiorari, because increasing revenues to producers by enactment of the NGPA is exactly what Congress intended in order to encourage greater production of natural gas.

ARGUMENT

I. The Court Below Gave Proper Deference To The Commission's Interpretation Of The Statute.

The Commission claims in its petition that the court below was required to give conclusive deference to the Commission's interpretation of the statute and that instead the court gave that interpretation no deference. Neither claim is supportable.

The court below recognized that the Commission's interpretation was entitled to deference, but concluded after an extensive discussion of the relevant precedents that the factors

[19] Rule 17.1, Rules of the Supreme Court of the United States.

which call for a greater degree of deference were absent from this case. It is unnecessary to repeat here the Fifth Circuit's discussion.[20] Simply, it can be said that the decision below evidences both the court's due consideration of each Commission argument in support of the agency's statutory interpretation[21] and the court's findings that every such argument was not sufficient to "challenge the clear meaning of the statute as revealed by its language, purpose and history."[22] Adoption herein of the standard of deference supported in the Commission's Petition would effectively abrogate the right of review otherwise guaranteed to aggreived parties by Section 19 of the NGA[23] and Section 506 of the NGPA[24] where the agency action in question involved interpretation of either statute.

II. The "Intracorporate Transfer" Found By The Court Below To Have Been Contemplated By Congress In The NGPA Is No "Novel Regulatory Doctrine."

The court below found that the NGPA and its relevant legislative history persuaded it "that Congress both intended to accord pipeline production first sale status and contemplated that the intracorporate transfer would be treated as a first sale."[25] The Commission in its petition claims the "intracorporate transfer" concept is a "novel regulatory doctrine"[26] and argues it would be "anomalous" to permit pipeline producers to qualify for NGPA maximum lawful prices through "intracorporate transfers" not governed by contracts.[27]

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[20] *Mid-Louisiana*, 664 F.2d at 534 and 535, (Appendix A-5 through A-7).

[21] A contrary factual background exists in the case cited in the Commission's petition as controlling here, Federal Election Commission v. Democratic Senatorial Campaign Committee, ____ U.S. ____, 102 S.Ct. 38, (1981). There the court below found that the Federal Election Commission's interpretation of the Federal Election Campaign Act of 1971, 2 U.S.C. § 441a(d)(3)(1976), was entitled to no deference whatsoever.

[22] *Mid-Louisiana*, 664 F.2d at 535, (Appendix A-7).

[23] 15 U.S.C. § 717r (1976).

[24] 15 U.S.C. § 3416 (Supp. II 1978).

[25] *Mid-Louisiana*, 664 F.2d at 536, (Appendix A-11).

[26] Commission Petition, page 14.

[27] *Id.*, page 20.

The Commission's characterizations in these regards are incorrect. Furthermore, they are irrelevant in determining whether a writ of certiorari should be issued. Clearly, Congress has the power to institute by statute a "novel regulatory doctrine", the application of which may have "anomalous" consequences such as the one described by the Commission's petition. The only relevant inquiry involves a determination of Congressional intent. The court below has made that determination within the contexts of permissible court review of agency action and accepted principles of statutory construction.

The Fifth Circuit's reading of the NGPA involves no "novel regulatory doctrines" and results in no "anomalous" regulatory consequences. Since 1969, the Commission and its predecessor, the Federal Power Commission, have been committed to the policy of parity pricing for pipeline production.[28] Only gas from wells drilled before January 1, 1973, on leases acquired by pipelines prior to October 8, 1969, was continued to be priced on a cost-of-service basis after that date. To accomplish this pricing policy, the Commission, by regulation, required that all other pipeline produced gas be priced at independent producer area or nationwide rate ceilings.[29] No contracts between producing and transporting divisions were required, and the gas qualifying for area or nationwide rate ceilings was treated in interstate pipeline rate proceedings as an intracorporate transfer at such ceilings.[30]

The Commission continued this policy and procedure with respect to NGPA ceilings.[31] Therefore, the court below, having found that Congress intended for the intracorporate transfer of all pipeline production to be treated as a first sale under the NGPA, saw no insurmountable barriers to the administration by the Commission of its mandate.[32]

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[28] Order No. 98 *supra* note 2 (Appendix B-21 and B-22).

[29] 18 C.F.R. § 2.66 (1981).

[30] 18 C.F.R. § 154.38, n. 1 (1981).

[31] Order No. 98, *supra* note 2, (Appendix B-16).

[32] *Mid-Louisiana*, 664 F.2d at 538. (Appendix A-14).

III. The Historical Treatment Of Pipeline Produced Gas Cited In The Commission's Petition Does Not Support Review By This Court.

The Commission contends in its petition that the decision below will overturn "more than 40 years of regulatory policy . . . without persuasive evidence that Congress intended to depart from this longstanding administrative practice."[33] This contention fails on two grounds to serve as support for review of the decision below by this Court.

First, the court below has adequately and carefully examined the statutory background and fully supported its reading of the NGPA. The petition of the Commission raises no convincing arguments to overturn the statutory examination of the court below.[34] There is no dispute between the court below and the Commission that one of the purposes of the NGPA included the establishment of increased incentives for the production of natural gas. This purpose was to be attained by a departure from the cost-based regulation applied by the Commission under the NGA. The court below found that Congress intended for all, instead of part, of pipeline produced gas to be included in this new pricing scheme. The mere historical recitation of what the Commission sees as a different regulatory pricing policy cannot serve to frustrate this Congressional intent.

Second, as shown in part II hereinabove, the Commission and its predecessor, the Federal Power Commission, have been committed for the last thirteen years to a policy of pricing pipeline and pipeline affiliate production on parity with interstate gas produced by others. Only pipeline and affiliate gas from "old wells" (*i.e.*, those spudded prior to January 1, 1973) on "old leases" (those acquired by pipelines before October 8, 1969) was exempted prior to the NGPA from parity pricing treatment with other interstate pipeline and affiliate produced gas and interstate gas belonging to independent producers.

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[33] Commission Petition, pages 14 and 15.

[34] It is noteworthy that the Commission must resort to rewriting the legislative history in order to support one of its primary arguments against the construction given to the statute by the court below. Commission Petition, page 23.

Under this regulatory structure, it was clear that "old" cost-of-service priced gas would decline as those wells depleted so that eventually, virtually all pipeline produced gas would be priced on parity with gas produced by others. It is reasonable to assume, given the Congressional purposes embodied in the NGPA of increasing incentives for maximizing the production of natural gas, that Congress acted by the NGPA to accelerate the ultimate end of previously established Commission policy on the pricing of all produced gas, including pipeline production. In any event, it is apparent that the statutory reading of the court below results in no radical departure from preexisting Commission policy on the pricing of pipeline produced gas.

IV. The Allegation That The Decision Below Will Result In An "Unjustified Windfall" To Pipeline Producers Presents Neither A Basis For A Different Statutory Interpretation Nor A Reason In Equity For Review By This Court.

The Commission's Petition claims that "[u]nless overturned, the court of appeals' decision promises to grant pipeline producers an unjustified windfall at the expense of the nation's gas consumers, who, under the cost-of-service methodology, have borne the risks of the pipelines' production ventures."[35] This position is unsupportable.

As has been stated hereinabove, there is no dispute between the court below and the Commission that one of the purposes of the NGPA included the establishment of increased incentives for the production of natural gas. The purpose of increasing the production of gas is to provide consumers a more secure supply of this commodity. This objective could not be accomplished without a resulting increase in the cost of gas to consumers. Congress, in balancing these public interest concerns, recognized this result and provided a mechanism intended to reduce its effect on certain end-users by the incremental pricing provisions in Title II of the NGPA.[36] Congress assumed natural gas producers would act rationally to

[35] Commission Petition, page 15.

[36] 15 U.S.C. §§ 3341-3348 (Supp. II 1978).

these additional incentives by increasing their exploration for and production of natural gas. Thus, the successful attainment of a central purpose and anticipated result of the NGPA, *i.e.* increased revenues to producers of gas, cannot legitimately be asserted by the Commission as a reason for review and reversal by this Court of the decision below.

Additionally, the Commission's Petition has not proven that increased consumer costs will result from the decision below. Rather than resulting in increased costs to gas consumers, the effect of the Fifth Circuit decision could just as likely be a redistribution of revenues among producers with no resultant change in consumer costs. Furthermore, it might be reasonably assumed that increased gas production by pipelines would result from the incentives included in the NGPA and such additional gas will be available to end users to offset more expensive alternate fuels.

Finally, the argument that Congress could not have intended to permit pipelines to gain from the passage of NGPA since the production risks of those pipelines were specifically borne by gas consumers cannot withstand even superficial scrutiny. Any such Congressional intent is neither expressed nor implied in the NGPA or its legislative history.

The Commission's Petition points out that prior nationwide rate ceilings for independent producers under the NGA included "dry hole" costs.[37] By the reasoning of the Commission's Petition, independent producers who received such prices for gas should also be excluded from entitlement to NGPA price ceilings. Congress obviously intended no such absurd results as the Commission suggests.

Furthermore, the Commission cannot prove its contention that gas consumers bore the risks of CIG's production ventures. In fact, the contrary is shown by an examination of the cases cited in the Commission's Petition as establishing the history of cost-of-service pricing for pipeline production. Those cases are *Canadian River Gas Co., et al.*, 3 F.P.C. 32 (1942) *aff'd sub nom, Colorado Interstate Gas Company* v. *FPC*, 324 U.S. 581

[37] Commission Petition, page 4.

(1945). The cases reveal that Canadian River, an affiliate of CIG at that time which was subsequently merged into CIG, acquired its gas production properties in the Texas Panhandle[38] in 1928,[39] fourteen years before the Commission announced in the *Canadian River* case that such production must be priced on a cost-of-service basis and ten years before the enactment of the Natural Gas Act. No one can say CIG and its predecessors undertook to explore for and develop the gas on these properties in recognition that the risks attendant thereto would be underwritten by Commission pricing policy.

Likewise, no one can legitimately argue that CIG and its predecessors elected cost-of-service treatment for its own production. To the contrary, Canadian River contended the regulation of its production was beyond the Commission's jurisdiction under Section 1(b) of the NGA.[40] As to the pricing of such gas, this Court summarized Canadian River's argument as follows:

> It is argued that the correct procedure is for the Commission to allow in the operating expenses of a natural-gas company, whose rates it is empowered to fix, the "fair field price" or "fair market value, as a commodity, of the gas" which finds its way into the transmission lines for interstate transportation and sale.[41]

This Court did not accept Canadian River's argument and instead affirmed the Federal Power Commission decision below to price Canadian River's pipeline production on a cost-of-service basis. In making its decision this Court stated its reasoning as follows:

> Congress of course might have provided that producing or gathering facilities be excluded from the rate base and that an allowance be made in operating

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[38] CIG's Texas Panhandle properties still supply approximately 94% of CIG's company-owned pipeline production.

[39] Colorado Interstate Gas Company v. FPC, 324 U.S. at 584.

[40] 15 U.S.C. 717(b) (1976).

[41] Colorado Interstate Gas Company v. FPC, 324 U.S. at 600.

> expenses for the fair field price of the gas as a commodity. Some have thought that to be the wiser course. But we search the Act in vain for any such mandate.[42]

The court below has correctly read the NGPA as stating the Congressional mandate for which this Court searched in *Colorado Interstate.*[43]

CONCLUSION

The petition for a writ of certiorari filed by the Commission should be denied, since it presents no special and important reasons for review by this Court.

Respectfully submitted,

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Dated: August 4, 1982

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[42] *Id.* at 601.

[43] The legacy of cost-of-service pricing of pipeline produced gas is demonstrated by comparing the amount of gas producing properties owned by Canadian River in December of 1939 (approximately 300,000 acres) and the lesser amount of gas producing properties owned by CIG today (approximately 268,423 acres). Colorado Interstate Gas Company v. FPC, 324 U.S. at 585; CIG Federal Energy Regulatory Commission, Form No. 2, year ending December 31, 1981, page 501.